TEXT AND MATERIALS: The required text for this course is STERK, PEÑALVER & BRONIN, LAND USE REGULATION, 2d ed. (Foundation Press). Copies are available in the campus bookstore, or can be purchased online from a variety of sources, including Westlaw’s online bookstore.

The following two secondary resources, which can aid your study outside of class, are available to you for free through the West Study Aids package in the library.

NOLAN & SALKIN, LAND USE LAW IN A NUTSHELL (West Academic 2d ed. 2017)

JUERGENSMEYER & ROBERTS, LAND USE PLANNING AND DEVELOPMENT REGULATION (West Academic 3d ed. 2013)

LEARNING OUTCOMES: In compliance with Standard 301(b) of the American Bar Association’s Standards and Rules of Procedure for Approval of Law Schools, the following statement reflects the learning outcomes for this course.

The Land Use Controls course focuses on how the law empowers (and disempowers) a local community to regulate the development and use of land within the community through the “planning and zoning” process. In this course, students will:

- become familiar with the structure of the planning and zoning process and the
tools planners use to carry out that process;

- become familiar with the substantive and procedural legal rules that govern legal challenges to zoning decisions under state law, whether brought by an owner of the affected parcel or by neighbors;

- become familiar with the substantive legal rules that govern challenges to zoning decisions under federal law, whether brought by an owner of the affected parcel or by neighbors;

- become familiar with how lawyering requires not only effective advocacy in the resolution of disputes over land use/development, but also the development and implementation of problem solving skills to be applied in the resolution and/or avoidance of these disputes, and

- gain knowledge useful for success on the land use-related subjects covered on the Multistate Bar Examination (zoning, takings, and nuisance).

Evaluation of student accomplishment of these learning outcomes will be on a summative basis, as discussed below in this Syllabus (see “Course Grade”).

**EXPECTATIONS:** To facilitate the accomplishment of the learning outcomes noted above, I have several basic expectations of each student in the course:

- **I expect you to be present for each class, to have read the assignment for the class period, and to be prepared to participate in class discussion.** Each of you has a responsibility for your own learning and that of your fellow classmates. If you are not present in class, not attentive, not engaged in discussion with your classmates, and not contributing to class discussion generally, you are not fulfilling that responsibility.

- **I expect you to be in class, **ON TIME, with phones silenced, so that class discussion can commence each class day promptly at 2:00 p.m.**

- **I expect you to participate actively in class discussion, even if you are not sure of the “right” answer.** One of the most important lawyering skills that you must develop—whether as an advocate or a counselor—is the ability to process verbal and written information and to respond to extemporaneous questions or comments in a concise and articulate way. One of the benefits of the law school classroom is that you can work to develop this ability in an environment where your mistakes do not have consequences for third-parties—if you answer something wrong in class, your client does not go to jail or become subject to an enormous monetary
judgment. You and your classmates can (and should) learn not only from one another’s insights, but also from one another’s mistakes.

- In reviewing and synthesizing the course material and class discussions, you will inevitably identify questions or issues about which you are uncertain. **I expect you to make an effort to “fill the gaps” in your understanding of the material, such as by (a) posing questions in class; (b) posing questions to a fellow classmate outside of class, (c) reference to secondary resources, and/or (d) posing the questions to me outside of class, either in person or by e-mail. I particularly encourage you to pose questions immediately following a class meeting, while those questions are fresh in your mind.**

**ACADEMIC INTEGRITY:** Academic integrity is fundamental to the activities and principles of a university. All members of the Law School community must be confident that each person’s work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest, whether or not the effort is successful. The Law School community regards breaches of the academic integrity rules as extremely serious matters. Sanctions for such a breach may include grade sanctions (up to and including failing the course) and disciplinary sanctions ranging from probation to expulsion. I encourage you to make sure that your work in this and other courses complies in all respects with the Law School’s Honor Code. If you have any question regarding whether your conduct complies with the Honor Code, you should contact me for clarification.

**COURSE WEB PAGE:** I maintain a webpage for this course. The URL for the page is: [http://www.mulaw.missouri.edu/freyermuth/LandUse/fall2019/index.html](http://www.mulaw.missouri.edu/freyermuth/LandUse/fall2019/index.html).

A copy of this syllabus is posted on the webpage. By each Friday, I will post the assignments for the following week, and the website will archive assignments throughout the semester. In addition, I may occasionally post a new hypothetical (i.e., one not included in the course materials) for a following class period’s discussion. Any messages regarding the postponing or rescheduling of classes will be posted to the course webpage. Finally, after some class periods, students may pose one or more questions after class, and in many circumstances, I will prepare and post on the website a “question/answer memo” that identifies such questions and provides an answer for the benefit of the class. **As a result, you should check the course webpage daily for new information.**

**INTERACTION WITH STUDENTS:** I maintain an open-door policy. I do not maintain regular “office hours,” but am in my office much of the time during most weekdays (other than during my Real Estate Finance class, which meets MWR from 8:00 a.m. to 8:50 a.m.). If you have a question or concern about the course or law school, and I am in my office, please feel free to come and see me. If you need to set up a specific
appointment time for scheduling reasons, you are welcome to do so. Many students also find it easy to communicate with me by e-mail: my address is freyermuthr@missouri.edu and you are welcome to raise questions or concerns by e-mail if it is convenient for you.

**ATTENDANCE POLICY:** According to American Bar Association accreditation guidelines, class attendance is required and expected of all students. At each class, I will circulate a sign-in sheet for you to record your attendance. You are responsible to make sure that your name is on the attendance sheet. I also expect students to be present and ready to begin class promptly at the scheduled time. Any student that misses more than ten (10) regularly scheduled classes during the semester will be dropped from the course or (if allowed to remain in the course) subject to a grade reduction for each absence above the limit.

From time to time, you may have to miss a class because of illness, family responsibilities, or the like. I expect that you will provide me with prior notice of any anticipated absence (an e-mail message is fine) or, in cases of emergency when notice prior to class is impossible, as promptly as possible afterwards. In practice, clients and colleagues will expect such courtesy, so I encourage you to get in the habit of providing notice when you must miss class.

**COURSE GRADE:** Grades in this course will be based upon the following:

A. **Reflection Paper/Presentation.** Prior to the exam period, you must attend at least two meetings/hearings of a local planning body (the Board of Adjustment, the Planning and Zoning Commission, or the city council or county commission). At these meetings, you will identify a particular land use project that is being discussed at those meetings. You will submit a reflection paper (5 pages minimum, 10 pages maximum) in which you analyze the meetings/hearings you attended, and make an oral presentation to the class (5-10 minutes) regarding your observations about that project.

Note: Do not delay in identifying and attending meetings. Meetings sometimes are canceled or rescheduled due to inclement weather or other reasons, and you do not want to be in the position of failing to attend the requisite number of meetings because of cancellations. I will provide more detail regarding the content of the reflection paper and the scheduling of presentations during our first class session on Monday, August 19. The reflection paper and presentation will constitute 35% of your course grade.

You will probably find it most convenient to attend one of the City of Columbia or Boone County meetings, but you are not limited to the City of Columbia or Boone County. [For example, in the Spring 2018 Semester, one student presented on a
re zoning request in the City of Warrenton (his hometown) and another student presented on a variance request in the City of O’Fallon (where he lived).

Meeting schedules for the City of Columbia and Boone County are available at the following sites:

City of Columbia:  http://www.como.gov
Boone County:  http://showmeboone.com

If you are aware of a particular development project in another municipality that is of interest to you and that you would like to use for the focus of your paper and presentation, and that municipality streams its meetings online, you can attend the meetings virtually, but you must approve this with me first.

B. **Final Exam.** There will be an examination consisting of multiple choice, short answer and essay questions which will be administered at the time indicated on the Final Exam schedule. Your score on this exam will constitute 65% of your course grade.

C. **Class Participation.** Participation in class discussion is an integral part of the law school learning experience. As a result, I both encourage and expect you to participate in class discussion. I reserve the right to add up to two (2) points to a student’s final course grade for consistent and exceptional class participation. I also reserve the right to deduct up to two (2) points from a student’s final course grade for repeated unpreparedness. I also reserve the right to deduct one (1) point for each absence in excess of the ten (10) absences permitted by the attendance policy.

**ASSIGNMENTS:** Before each Friday, I will post a message containing specific daily assignments for the following week’s classes on the course Web page. Prior to each class, all students should have read, and should be prepared to discuss, any portion of the assigned material. The initial assignments for Week #1 appear at the end of this Syllabus, and also appear on the course website.

**COMPUTER POLICY:** You are welcome to use a tablet or laptop computer during class, but use is limited to class-related use only.
COURSE COVERAGE

This is a basic outline of what the course will cover. Please refer to each week’s assignments on the course webpage for precise page assignments for each day’s class.

I. Private Nuisance (Handout)

II. Introduction to Public Land Use Control (Chapter One)

III. Zoning Basics (Chapter Two)
   A. The Zoning Ordinance
   B. Variances
   C. Conditional Uses
   D. Accessory Uses
   E. Nonconforming Uses
   F. Incentive Zoning and Transferable Development Rights

IV. “Advanced” Zoning (Chapter Three)
   A. Floating Zones, Cluster Zoning, Subdivision Regulation, Planned Unit Development, Site Plan Review
   B. Historic Preservation and Aesthetic Regulation

V. Developer Challenges to Land Use Decisions
   A. State Law (Chapter Four)
   B. Federal Law (Chapter Five)

VI. Neighbor Challenges to Land Use Decisions (Chapter Six)

I plan to cover most of the material in the following Chapters (although not necessarily in the order set forth in the Casebook):

Chapter One  Introduction
Chapter Two  Zoning Basics
Chapter Three Beyond Zoning: Large Developments, Historic Properties, and Aesthetics
Chapter Four  Developer Challenges: State Law
Chapter Five  Developer Challenges: Federal Law
Chapter Six  Neighbor Challenges to Municipal Land Use Decisions
Note that the first class meeting will be Monday, August 19, 2019.

Classes #1 and 2: Monday, August 19 and Wednesday, August 21, 2019. Read the handout on Private Nuisance (the handout is posted on the class website). Be prepared to discuss the two principal cases in the handout (Sundowner, Inc. v. King and Carpenter v. The Double R Cattle Co., Inc.) and the notes and questions following those cases. In particular, focus with particular care on the questions in notes 1 through 5 following the Carpenter case, which will be the primary focus of Wednesday’s class session.

Class #3: Friday, August 23. 2019. Read Casebook pages 1-11. Focus particularly on the hypothetical discussed on page 1, and the questions in notes 1 through 4 on pages 1-2.